IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(***Special Original Jurisdiction***)

TUESDAY, THE NINETEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

P R E S E N T:

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 7004 of 2005

Between:

P. Viswanath, S/o P. Bheemaiah,
R/o Garladinna Village & Mandal, Anantapur District.

..... PETITIONER

A N D

1 The Joint Collector, Anantapur, Anantapur District.
2 The Revenue Divisional Officer, Anantapur, Anantapur District.
3 The Mandal Revenue Officer, Garladinna Mandal, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings of the 2nd respondent in proceedings No. Rc.No. D1/CS/1833/2004 dated 7-3-2005 by issuing suspension order pending enquiry of the petitioner Fair Price Shop authorization on fake and tale grounds and the Joint Collector also refused Stay petition in an appeal filed by the petitioner of Garladinne Village and Mandal Anantapur district is illegal and arbitrary and violation of principles of natural justice and in violation of Article 14, 19 and 21 of the Constitution of India and consequently set aside the above said proceedings as illegal and consequently set aside the above said proceedings as illegal and direct the respondents herein to restore the petitioner fair price shop dealer authorization and pass such other order orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.ANJANEYULU BORAMPALLI

Counsel for the Respondent No: GP FOR CIVIL SUPPLIES

The Court made the following :

O R D E R

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This writ petition is filed to declare the proceedings of the second respondent in Rc.No.D1/CS/1833/2004 dated 07-3-2005 by issuing suspension order pending enquiry into the fair price shop authorization of the petitioner on fake and tale grounds and the consequential refusal of the Joint Collector to grant stay in an appeal filed by him of Garladinne village and Mandal of Anantapur district as illegal, arbitrary and violation of Article 14, 19 and 21 of the Constitution of India as well as the principles of natural justice and set aside the impugned proceedings as illegal and direct the respondents to restore the fair price shop dealer authorization of the petitioner.

The petitioner is the fair price shop dealer of shop no.II of Garladinne village and Mandal of Anantapur district since 22 years and his authorization is still subsisting upto 31-3-2005. After receiving show cause notice on 10-12-2004, he filed an appeal against the show cause notice on 11-12-2004 to accord permission for distribution of essential commodities and on application the Collector directed the Revenue Divisional Officer to issue essential commodities till the authorization is suspended or cancelled. On 13-12-2004 he filed an explanation to the show cause along with an application before the Revenue Divisional Officer to furnish a copy of the MRO's enquiry report.

The petitioner submits that the impugned suspension order has been passed on the sole ground that he has not submitted his explanation to the show cause notice but the petitioner submits that he has submitted his explanation to the show cause

notice on 13-12-2004 itself through his advocate and he has submitted a copy of the said explanation as material paper in the main writ petition.

The learned Govt.Pleader submits that the Mandal Revenue Officer, Garaladinne Mandal had conducted enquiry on 26-11-2004 with regard to the irregularities committed by the petitioner. After completion of enquiry and on the basis of the report of the Mandal Revenue Officer, Garaladinne Mandal the Revenue Divisional Officer, Anantapur, has suspended fair price shop authorization of the petitioner and now the petitioner has filed the present writ petition contending that as against the impugned order, he filed an appeal before the Joint Collector, Anantapur along with stay application but the Joint Collector refused the same on 12-1-2005 vide Proceedings Rc.No.K4/ATP/1486/2004 without giving him an opportunity and he further contends that filing the appeal before the Joint Collector, Anantapur he filed a writ petition before this court in WP.No.462 of 2005 dated 19-1-2005 and WP.No.462 of 2005 was allowed and the proceedings dated 05-1-2005 issued by the second respondent are set aside and in view of allowing the said writ petition, the contention of the petitioner is that the appeal which is now pending before the first respondent becomes superfluous and he need not pass any orders and it shall be open to the second respondent to pass fresh orders taking into account of his explanation.

Heard the learned counsel for the petitioner as well as the learned Govt.Pleader for Civil Supplies.

As seen from the impugned show cause notice and suspension order, it is alleged that three charges were framed against the petitioner. The Mandal Revenue Officer,

Garaladinne had conducted enquiry into the matter and submitted his report. The petitioner contends that he had submitted explanation to the show cause notice on 13-12-2004 itself through his advocate. Now the contention of the learned counsel for the petitioner is that the alleged enquiry being conducted by the Mandal Revenue Officer, Garladinne is behind his back and no opportunity of hearing was afforded nor any prior notice to such enquiry was given to him.

After hearing both sides, I am satisfied that the proceedings are initiated as per the report submitted by the Mandal Revenue Officer, Garaladinne with regard to certain irregularities committed by the petitioner. The Revenue Divisional Officer, Anantapur after satisfying himself passed the impugned proceedings against the petitioner. Now by virtue of the impugned proceedings, the present writ petition is filed firstly on the ground that the cancellation order was passed by the second respondent is baseless and far from truth; secondly, the said cancellation order was issued without verifying the records and without verifying genuineness of the allegations; thirdly, without quoting any provisions in the order is invalid and it has to be set aside; fourthly, the said cancellation order has been issued with the intervention of political persons, to see that their henchmen should be inducted in the place of the petitioner after elimination from authorization; fifthly, the third respondent submitted false enquiry report without conducting any enquiry is illegal and violated the principles of natural justice.

On careful consideration of the entire material placed on record and on hearing the learned counsel appearing on either side, I deem it appropriate to direct the

appellate authority to dispose of the appeal filed by the petitioner on merits and in accordance with law within eight weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is dismissed. No order as to costs.

APRIL 19th, 2005. ----------

I S L **ELIPE DHARMA RAO, J**.

To

1. 2 CD copies
2. The Joint Collector, Anantapur, Anantapur district.
3. The Mandal Revenue Officer, Garladinna Mandal, Anantapur district.

4) The Govt.Pleader for Civil Supplies, High Court of AP Hyderabad.